

LEGISLATIVE BILL 800

Approved by the Governor May 5, 1999

Introduced by Jensen, 20

AN ACT relating to dentistry; to amend sections 71-183.01, 71-183.02, 71-193.13 to 71-193.18, 71-193.28, 71-193.31, and 71-3507, Reissue Revised Statutes of Nebraska; to change provisions relating to dental hygienists and dental auxiliaries; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-183.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-183.01. Nothing in section 71-183 shall apply to the following practices, acts, and operations:

(1) To the practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless he or she practices dentistry as a specialty;

(2) To the giving by a qualified anesthetist or registered nurse of an anesthetic for a dental operation under the direct supervision of a licensed dentist or physician;

(3) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Public Health Service, Coast Guard, or Department of Veterans Affairs;

(4) The practice of dentistry by a licensed dentist of other states or countries at meetings of the Nebraska Dental Association or components thereof, or other like dental organizations approved by the board, while appearing as clinicians;

(5) To the filling of work authorizations of a licensed and registered dentist as provided in this subdivision by any person or persons, association, corporation, or other entity for the construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth if such person or persons, association, corporation, or other entity does not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio, or otherwise, to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth;

(6) To the use of roentgen or X-ray machines or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician if such service is not advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he or she has, leases, owns, or operates a roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof;

(7) To the performance by a licensed dental hygienist, under the supervision of a licensed dentist, of the oral prophylaxis procedure which shall include the scaling and polishing of teeth and such additional procedures as are prescribed in accordance with rules and regulations adopted by the Department of Health and Human Services Regulation and Licensure;

(8) To the performance by a dental assistant, ~~auxiliary other than a licensed dental hygienist~~, under the supervision of a licensed dentist, of duties prescribed in accordance with rules and regulations adopted by the ~~Department of Health and Human Services Regulation and Licensure~~ department; or

(9) To the performance by a licensed dental hygienist, by virtue of training and professional ability, under the supervision of a licensed dentist, of taking dental roentgenograms. Any other person is hereby authorized, under the supervision of a licensed dentist, to take dental roentgenograms but shall not be authorized to do so until he or she has satisfactorily completed a course in dental radiology recommended by the Board of Examiners in Dentistry and approved by the ~~Department of Health and Human Services Regulation and Licensure~~ department.

Sec. 2. Section 71-183.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-183.02. For purposes of sections 71-183 to ~~71-193.14~~ 71-193.20, dental assistant ~~means shall mean~~ a person, other than a dental hygienist, employed by a licensed dentist for the purpose of assisting such dentist in

the performance of his or her clinical and clinical-related duties.

Sec. 3. Section 71-193.13, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.13. Any licensed dentist, public institution, or school may employ dental ~~auxiliaries~~ assistants, in addition to licensed dental hygienists. Such dental ~~auxiliaries~~ assistants, under the supervision of a licensed dentist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the Department of Health and Human Services Regulation and Licensure.

Sec. 4. Section 71-193.14, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.14. The Board of Examiners in Dentistry shall recommend rules and regulations to the Department of Health and Human Services Regulation and Licensure governing the performance of duties by licensed dental hygienists and ~~other dental auxiliaries~~ assistants. The ~~Department of Health and Human Services Regulation and Licensure~~ department shall adopt rules and regulations for such purpose upon the recommendations being submitted by the ~~Board of Examiners in Dentistry~~ board.

Sec. 5. Section 71-193.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.15. A licensed dental hygienist shall perform the traditional dental hygiene functions set forth in section 71-193.17 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient. The Department of Health and Human Services Regulation and Licensure in the conduct of public health-related services may authorize a licensed dental hygienist to conduct preliminary charting and screening examinations, provide oral health education for patients including the teaching of appropriate plaque control techniques, and perform or provide all of the duties that any ~~other dental auxiliary~~ assistant is authorized to perform.

Sec. 6. Section 71-193.16, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.16. As used in sections 71-183 to 71-193.20, (1) general supervision ~~shall mean~~ means the directing of the authorized activities of a dental hygienist or ~~other dental auxiliary~~ assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities and (2) indirect supervision ~~shall mean~~ means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental ~~auxiliary~~ assistant and the licensed dentist is physically present on the premises when such procedure is being performed by the dental ~~auxiliary~~ hygienist pursuant to section 71-193.18 or the dental assistant.

Sec. 7. Section 71-193.17, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.17. When properly authorized, a licensed dental hygienist, under the general supervision of a licensed dentist, may perform the following intra and extra oral procedures:

- (1) Scaling of teeth, including subgingival regions and root planing with hand and ultrasonic instruments;
- (2) Polish all exposed tooth surfaces with motor-driven and hand instruments in the oral prophylaxis procedure, including polishing amalgam restorations;
- (3) Conduct preliminary charting and screening examinations;
- (4) Periodontal probing and charting;
- (5) Gingival curettage;
- (6) Place and remove periodontal dressings;
- (7) Remove sutures;
- (8) Provide preventive measures, such as the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;
- (9) Provide impressions for study casts;
- (10) Apply topical desensitizing agents;
- (11) Provide radiographic exposures;
- (12) Provide oral health education for patients including the teaching of appropriate plaque control techniques; and
- (13) Perform or provide all of the duties that any ~~other dental auxiliary~~ assistant is authorized to perform.

Sec. 8. Section 71-193.18, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.18. (1) A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(2) A licensed dental hygienist may be approved by the Department of

Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Dentistry, to administer local anesthesia under the indirect supervision of a licensed dentist. The department may, upon the recommendation of the board, prescribe by rule and regulation: The necessary education and preparation, which shall include, but not be limited to, instruction in the areas of head and neck anatomy, osteology, physiology, pharmacology, medical emergencies, and clinical techniques; the necessary clinical experience; and the necessary examination for purposes of determining the competence of licensed dental hygienists to administer local anesthesia.

Upon the recommendation of the ~~Board of Examiners in Dentistry~~ board, the department may approve successful completion after July 1, 1994, of a course of instruction to determine competence to administer local anesthesia. The course of instruction must be at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure. The course of instruction must be taught by a faculty member or members of the institution presenting the course. The ~~Department of Health and Human Services Regulation and Licensure~~ department may approve for purposes of this subsection a course of instruction if such course includes:

(a) At least twelve clock hours of classroom lecture, including instruction in (i) medical history evaluation procedures, (ii) anatomy of the head, neck, and oral cavity as it relates to administering local anesthetic agents, (iii) pharmacology of local anesthetic agents, vasoconstrictor, and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight, (iv) systemic conditions which influence selection and administration of anesthetic agents, (v) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs, (vi) management of reactions to or complications associated with the administration of local anesthetic agents, (vii) selection and preparation of the armamentaria for administering various local anesthetic agents, and (viii) methods of administering local anesthetic agents;

(b) At least twelve clock hours of clinical instruction during which time at least three injections of each of the anterior, middle and posterior superior alveolar, naso and greater palatine, ~~infraorbital~~, inferior alveolar, lingual, mental, long buccal, and infiltration injections are administered; and

(c) Procedures, which shall include an examination, for purposes of determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

(3) No dental hygienist licensed in this state shall be approved to administer local anesthesia unless such person submits to the ~~Board of Examiners in Dentistry~~ board a fee of not less than twenty dollars nor more than one hundred dollars as determined by the ~~Department of Health and Human Services Regulation and Licensure~~ department upon the recommendation of the board.

Sec. 9. Section 71-193.28, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.28. General anesthesia and parenteral sedation shall not be administered by a dentist without the presence and assistance of ~~one or more dental auxiliaries~~ a dental hygienist or a dental assistant.

Sec. 10. Section 71-193.31, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.31. Permits issued by the board pursuant to sections 71-193.26, 71-193.27, and 71-193.29 shall be valid for four years. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations to define criteria for the reevaluation of credentials, facilities, equipment, dental ~~auxiliary personnel~~, hygienists, and dental assistants and procedures of a previously qualified dentist to renew his or her permit for each additional four-year period.

The department shall adopt and promulgate rules and regulations setting the fees for issuance of any of the permits specified in such sections at not less than fifty dollars nor more than two hundred dollars. A fee of not less than twenty-five dollars nor more than one hundred dollars shall be charged for renewal of any of such permits.

Sec. 11. Section 71-3507, Reissue Revised Statutes of Nebraska, is amended to read:

71-3507. (1) The department shall adopt and promulgate rules and regulations for the issuance, amendment, suspension, and revocation of general and specific licenses. Such licenses shall be for byproduct material, source material, special nuclear material, and radioactive material not under the authority of the federal Nuclear Regulatory Commission and for devices or

equipment utilizing such materials. The rules and regulations shall provide:

(a) For written applications for a specific license which include the technical, financial, and other qualifications determined by the department to be reasonable and necessary to protect occupational and public health and safety and the environment;

(b) For additional written statements and inspections, as required by the department, at any time after filing an application for a specific license and before the expiration of the license to determine whether the license should be issued, amended, suspended, or revoked;

(c) That all applications and statements be signed by the applicant or licensee;

(d) The form, terms, and conditions of general and specific licenses;

(e) That no license or right to possess or utilize sources of radiation granted by a license shall be assigned or in any manner disposed of without the written consent of the department; and

(f) That the terms and conditions of all licenses are subject to amendment by rules, regulations, or orders issued by the department.

(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section in order to maintain compatibility and equivalency with the standards and regulatory programs of the federal government or to protect the occupational and public health and safety and the environment.

(3) The department shall require licensure of persons providing measurement and mitigation services of radon or its decay products in order to protect the occupational and public health and safety and the environment. The department shall adopt and promulgate rules and regulations establishing education, experience, training, and examination requirements for radon measurement specialists, radon measurement technicians, radon mitigation specialists, and radon mitigation technicians. The department shall adopt and promulgate rules and regulations establishing staffing, proficiency, quality control, reporting, worker health and safety, equipment, and record-keeping requirements for radon measurement businesses and radon mitigation businesses and mitigation system installation requirements for radon mitigation businesses.

(4) The department shall license persons practicing medical radiography, including medical radiographers and limited radiographers, in order to protect the occupational and public health and safety and the environment. The licenses shall be renewable biennially. For medical radiographers and limited radiographers, the department shall adopt and promulgate rules and regulations establishing examination requirements for licensure, continuing education requirements for renewal of a license, and approval requirements for examinations. For medical radiographers, the department shall adopt and promulgate rules and regulations establishing requirements for education and training and for approval of courses of training. Persons authorized under sections 71-193.15 and 71-193.17 to practice as dental hygienists and dental ~~auxiliaries~~ assistants who meet the requirements of section 71-193.13 shall not be required to be licensed under this section.

(5) The department may exempt certain sources of radiation or kinds of uses or users from licensing or registration requirements established under the Radiation Control Act when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(6) The department may provide by rule and regulation for the recognition of other state or federal licenses compatible and equivalent with the standards established by the department for Nebraska licensees.

(7) The department may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the act and rules and regulations adopted and promulgated pursuant to the act, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

(8) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect occupational and public health and safety and the environment as follows:

(a) The department shall, by public notice, establish a date on or before which date such sources of radiation shall be registered with the department, and the department shall provide appropriate forms for such registration. Each application for registration shall be in writing and shall state such information as the department by rules or regulations may determine

to be necessary and reasonable to protect occupational and public health and safety and the environment;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

(c) Failure to register or reregister sources of radiation in accordance with rules and regulations adopted and promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) The department may provide by rule and regulation for reregistration of sources of radiation.

(9) The results of any surveys or inspections of sources of radiation conducted by the department shall be public records subject to sections 84-712 to 84-712.09. In addition, the following information shall be deemed confidential:

(a) The names of individuals in dosimetry reports;

(b) Emergency response procedures which would present a clear threat to security or disclose names of individuals; and

(c) Any other information that is likely to present a clear threat to the security of radioactive material. The department shall make such reports of results of surveys or inspections available to the owner or operator of the source of radiation together with any recommendations of the department regarding deficiencies noted.

(10) The department shall have the right to survey or inspect again any source of radiation previously surveyed without limitation of the number of surveys or inspections conducted on a given source of radiation.

(11) The department may enter into contracts with persons or corporations to perform the inspection of X-ray radiation-generating equipment or devices which emit radiation from radioactive materials and to aid the department in the administration of the act.

Sec. 12. Original sections 71-183.01, 71-183.02, 71-193.13 to 71-193.18, 71-193.28, 71-193.31, and 71-3507, Reissue Revised Statutes of Nebraska, are repealed.